

**Executive Summary – Enforcement Matter – Case No. 44318**  
**Frankston Rural Water Supply Corporation**  
**RN101440857**  
**Docket No. 2012-1174-PWS-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

**Media:**

PWS

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

Frankston Rural WSC, 0.25 mile west of State Highway 155 at the intersection of County Road 318 and 329, Anderson County

**Type of Operation:**

Public water supply

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** November 16, 2012

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$1,277

**Amount Deferred for Expedited Settlement:** \$0

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$1,277

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - N/A

Site/RN - N/A

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002 and September 2011

**Executive Summary – Enforcement Matter – Case No. 44318**  
**Frankston Rural Water Supply Corporation**  
**RN101440857**  
**Docket No. 2012-1174-PWS-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** May 15, 2007 and May 2, 2012

**Date(s) of NOE(s):** May 17, 2012

***Violation Information***

1. Failed to obtain a sanitary control easement for all land within 150 feet of the ground water wells [30 TEX. ADMIN. CODE § 290.41(c)(1)(F)].
2. Failed to notify the Executive Director ("ED") prior to making any significant change to the Facility's production, treatment, storage, pressure maintenance, or distribution system [30 TEX. ADMIN. CODE § 290.39(j) and TEX. HEALTH & SAFETY CODE § 341.0351].
3. Failed to provide a well casing vent with an opening that is covered with 16-mesh or finer corrosion-resistant screen, facing downward, elevated and located so as to minimize the drawing of contaminants into the groundwater well [30 TEX. ADMIN. CODE § 290.41(c)(3)(K)].
4. Failed to enclose the water treatment plant and all appurtenances within an intruder-resistant fence or a locked building that is to remain locked during periods of darkness or when the plant is unattended [30 TEX. ADMIN. CODE § 290.42(m)].
5. Failed to provide ground storage tanks ("GSTs") designed in strict accordance with American Water Works Association standards with an overflow pipe that terminates downward with a gravity-hinged and weighted cover tightly fitted with no gap over 1/16 inch [30 TEX. ADMIN. CODE § 290.43(c)(3)].
6. Failed to prohibit water connection to a residence or establishment where an actual or potential contamination or system hazard exists without an air gap separation or an approved backflow prevention assembly between the public water facilities and the actual or potential contamination or system hazard, as identified in 30 TEX. ADMIN. CODE § 290.47(i) [30 TEX. ADMIN. CODE § 290.44(h)(1)(A)].
7. Failed to provide an elevated storage capacity of 100 gallons per connection or a pressure tank capacity of 20 gallons per connection [30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(iv) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

By July 13, 2012, Respondent installed an intruder-resistant fence at Plant No. 4 and installed a well casing vent on Well No. 9.

**Executive Summary – Enforcement Matter – Case No. 44318**  
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**Technical Requirements:**

The Order will require Respondent to:

a. Within 30 days:

i. Provide written notification to the ED of all modifications that have been made to the Facility's production, treatment, storage, pressure maintenance, or distribution system, including but not limited to the additional Plant No. 4; and

ii. Provide the GST overflows with gravity-hinged and weighted covers that fit tightly with no gap over 1/16 inch.

b. Within 45 days, submit written certification demonstrating compliance with Ordering Provisions a.i. and a.ii.

c. Within 90 days:

i. Ensure that a proper backflow prevention assembly or an air gap is provided at all locations where an actual or potential contamination hazard exists; and

ii. Obtain a sanitary control easement that covers all land with 150 feet for Well Nos. 1, 3, 6, 7 and 8 or obtain Commission approval of an exception to the easement requirement.

d. Within 105 days, submit written certification demonstrating compliance with Ordering Provisions c.i. and c.ii.

e. Within 180 days, provide a pressure tank capacity of 20 gallons per connection at Plant No. 3.

f. Within 195 days, submit written certification demonstrating compliance with Ordering Provision e.

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

**Executive Summary – Enforcement Matter – Case No. 44318**  
**Frankston Rural Water Supply Corporation**  
**RN101440857**  
**Docket No. 2012-1174-PWS-E**

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Abigail Lindsey, Enforcement Division,  
Enforcement Team 2, MC 169, (512) 239-2576; Debra Barber, Enforcement Division,  
MC 219, (512) 239-0412

**TCEQ SEP Coordinator:** N/A

**Respondent:** W.J. Dwyer, President, Frankston Rural Water Supply Corporation, P.O.  
Box 725, Frankson, Texas 75763-0725

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

**DATES**

**Assigned**  
**PCW**

21-May-2012  
20-Jun-2012

**Screening**

8-Jun-2012

**EPA Due**

## RESPONDENT/FACILITY INFORMATION

**Respondent** Frankston Rural Water Supply Corporation

**Reg. Ent. Ref. No.** RN101440857

**Facility/Site Region** 5-Tyler

**Major/Minor Source** Minor

## CASE INFORMATION

**Enf./Case ID No.** 44318

**Docket No.** 2012-1174-PWS-E

**Media Program(s)** Public Water Supply

**Multi-Media**

**No. of Violations** 1

**Order Type** Findings

**Government/Non-Profit** Yes

**Enf. Coordinator** Abigail Lindsey

**EC's Team** Enforcement Team 2

**Admin. Penalty \$ Limit Minimum**

\$50

**Maximum**

\$1,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)**

**Subtotal 1**

\$250

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History**

25.0%

Enhancement

**Subtotals 2, 3, & 7**

\$62

**Notes**

Enhancement for five NOV's with same/similar violations.

**Culpability**

No

0.0%

Enhancement

**Subtotal 4**

\$0

**Notes**

The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments**

**Subtotal 5**

\$0

**Economic Benefit**

0.0% Enhancement\*

**Subtotal 6**

\$0

Total EB Amounts

\$41

Approx. Cost of Compliance

\$100

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7**

**Final Subtotal**

\$312

**OTHER FACTORS AS JUSTICE MAY REQUIRE**

0.0%

**Adjustment**

\$0

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

**Final Penalty Amount**

\$312

**STATUTORY LIMIT ADJUSTMENT**

**Final Assessed Penalty**

\$312

**DEFERRAL**

0.0%

Reduction

**Adjustment**

\$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes**

No deferral is recommended for Findings Orders.

**PAYABLE PENALTY**

\$312

Screening Date 8-Jun-2012

Docket No. 2012-1174-PWS-E

PCW

Respondent Frankston Rural Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 44318

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101440857

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	5	25%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 25%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement for five NOVs with same/similar violations.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 25%

Screening Date 8-Jun-2012

Docket No. 2012-1174-PWS-E

PCW

Respondent Frankston Rural Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 44318

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101440857

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 290.41(c)(1)(F)

Violation Description

Failed to obtain sanitary control easements for all land within 150 feet of Well Nos. 1, 3, 6, 7 and 8.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			x

Percent 5%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to have sanitary control easements in place could allow activities causing contamination to occur in close proximity to the wells, exposing customers of the Facility to an insignificant amount of contaminants which would not exceed levels that are protective of human health.

Adjustment \$950

\$50

## Violation Events

Number of Violation Events 5

1851 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$250

Five single events are recommended (one for each well).

## Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$250

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$41

Violation Final Penalty Total \$313

This violation Final Assessed Penalty (adjusted for limits) \$313

# Economic Benefit Worksheet

**Respondent** Frankston Rural Water Supply Corporation

**Case ID No.** 44318

**Reg. Ent. Reference No.** RN101440857

**Media** Public Water Supply

**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$100	15-May-2007	1-Apr-2013	5.88	\$2	\$39	\$41
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

The delayed cost includes the estimated amount to record sanitary control easements for Well Nos. 1, 3, 6, 7 and 8 (\$20 per well), calculated from the investigation date originally documenting the violation to the estimated date of compliance.

## Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**

\$100

**TOTAL**

\$41





# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

**TCEQ**

**DATES**

**Assigned**

21-May-2012

**PCW**

20-Jun-2012

**Screening**

8-Jun-2012

**EPA Due**

## RESPONDENT/FACILITY INFORMATION

**Respondent** Frankston Rural Water Supply Corporation

**Reg. Ent. Ref. No.** RN101440857

**Facility/Site Region** 5-Tyler

**Major/Minor Source** Minor

## CASE INFORMATION

**Enf./Case ID No.** 44318

**Docket No.** 2012-1174-PWS-E

**Media Program(s)** Public Water Supply

**Multi-Media**

**No. of Violations** 6

**Order Type** Findings

**Government/Non-Profit** Yes

**Enf. Coordinator** Abigail Lindsey

**EC's Team** Enforcement Team 2

**Admin. Penalty \$ Limit Minimum**

\$50

**Maximum**

\$1,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)**

**Subtotal 1**

\$800

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History**

25.0%

Enhancement

**Subtotals 2, 3, & 7**

\$200

**Notes**

Enhancement for five NOV's with same/similar violations.

**Culpability**

No

0.0%

Enhancement

**Subtotal 4**

\$0

**Notes**

The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments**

**Subtotal 5**

\$35

**Economic Benefit**

0.0% Enhancement\*

**Subtotal 6**

\$0

Total EB Amounts

\$212

Approx. Cost of Compliance

\$5,218

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7**

**Final Subtotal**

\$965

**OTHER FACTORS AS JUSTICE MAY REQUIRE**

0.0%

**Adjustment**

\$0

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

**Final Penalty Amount**

\$965

**STATUTORY LIMIT ADJUSTMENT**

**Final Assessed Penalty**

\$965

**DEFERRAL**

0.0%

Reduction

**Adjustment**

\$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes**

No deferral is recommended for Findings Orders.

**PAYABLE PENALTY**

\$965

Screening Date 8-Jun-2012

Docket No. 2012-1174-PWS-E

PCW

Respondent Frankston Rural Water Supply Corporation

Policy Revision 3 (September 2011)

Case ID No. 44318

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101440857

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	5	25%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 25%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement for five NOVs with same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 25%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 25%

Screening Date 8-Jun-2012

Docket No. 2012-1174-PWS-E

PCW

Respondent Frankston Rural Water Supply Corporation

Policy Revision 3 (September 2011)

Case ID No. 44318

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101440857

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 290.39(j) and Tex. Health &amp; Safety Code § 341.0351

Violation Description

Failed to notify the Executive Director prior to making any significant change to the Facility's production, treatment, storage, pressure maintenance, or distribution system. Specifically, at the time of the investigation, it was documented that the Respondent had not received written approval from the TCEQ to place Plant No. 4 online.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

## &gt;&gt; Programmatic Matrix

	Falsification	Major	Moderate	Minor
		X		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$950

\$50

## Violation Events

Number of Violation Events 1

37 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$50

One single event is recommended.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$50

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$23

Violation Final Penalty Total \$63

This violation Final Assessed Penalty (adjusted for limits) \$63

# Economic Benefit Worksheet

**Respondent** Frankston Rural Water Supply Corporation

**Case ID No.** 44318

**Reg. Ent. Reference No.** RN101440857

**Media** Public Water Supply

**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$500	2-May-2012	1-Jan-2013	0.67	\$1	\$22	\$23
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

The delayed cost includes the estimated amount to notify the Executive Director and submit as-built plans and specifications for the additional Plant No. 4, calculated from the investigation date to the estimated date of compliance.

## Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**

\$500

**TOTAL**

\$23

Screening Date 8-Jun-2012

Docket No. 2012-1174-PWS-E

PCW

Respondent Frankston Rural Water Supply Corporation

Policy Revision 3 (September 2011)

Case ID No. 44318

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101440857

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 290.41(c)(3)(K)

## Violation Description

Failed to provide a well casing vent with an opening that is covered with 16-mesh or finer corrosion-resistant screen, facing downward, elevated and located so as to minimize the drawing of contaminants into the groundwater well. Specifically, Well No. 9 did not have a well casing vent.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to provide the well casing vent could allow insects, dust, and other significant contaminants to enter the water source, which would not exceed levels that are protective of human health.

Adjustment \$950

\$50

## Violation Events

Number of Violation Events 1

37 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$50

One quarterly event is recommended, calculated from the investigation date, May 2, 2012, to the screening date, June 8, 2012.

## Good Faith Efforts to Comply

10.0% Reduction

\$5

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes

The Respondent achieved compliance on July 13, 2012.

Violation Subtotal \$45

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$58

This violation Final Assessed Penalty (adjusted for limits) \$58

# Economic Benefit Worksheet

**Respondent** Frankston Rural Water Supply Corporation

**Case ID No.** 44318

**Reg. Ent. Reference No.** RN101440857

**Media** Public Water Supply

**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$100	2-May-2012	13-Jul-2012	0.20	\$0	\$1	\$1
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

The delayed cost includes the estimated amount to install a well casing vent, calculated from the investigation date to the date of compliance.

## Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**

\$100

**TOTAL**

\$1

Screening Date 8-Jun-2012

Docket No. 2012-1174-PWS-E

PCW

Respondent Frankston Rural Water Supply Corporation

Policy Revision 3 (September 2011)

Case ID No. 44318

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101440857

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 290.42(m)

Violation Description

Failed to enclose the water treatment plant and all appurtenances within an intruder-resistant fence or a locked building that is to remain locked during periods of darkness or when the plant is unattended. Specifically, at the time of the investigation, there was not a fence surrounding Plant No. 4.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Major	Harm Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix  
Notes

Failure to maintain an intruder-resistant fence and locked building could result in damage to the Facility's equipment and/or contamination of the drinking water by trespassers. This could cause customers of the Facility to be exposed to contaminants, which would exceed levels that are protective of human health.

Adjustment \$850

\$150

## Violation Events

Number of Violation Events 2

37 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$300

Two monthly events are recommended, calculated from the investigation date, May 2, 2012, to the screening date, June 8, 2012.

## Good Faith Efforts to Comply

10.0% Reduction

\$30

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes The Respondent achieved compliance on July 13, 2012.

Violation Subtotal \$270

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$28

Violation Final Penalty Total \$345

This violation Final Assessed Penalty (adjusted for limits) \$345

# Economic Benefit Worksheet

**Respondent** Frankston Rural Water Supply Corporation  
**Case ID No.** 44318  
**Reg. Ent. Reference No.** RN101440857  
**Media** Public Water Supply  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings	\$1,995	2-May-2012	13-Jul-2012	0.20	\$1	\$26	\$28
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount to add an intruder-resistant fence that surrounds Plant No. 4, calculated from the investigation date to the date of compliance.

## Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,995

**TOTAL**

\$28



Screening Date 8-Jun-2012

Docket No. 2012-1174-PWS-E

PCW

Respondent Frankston Rural Water Supply Corporation

Policy Revision 3 (September 2011)

Case ID No. 44318

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101440857

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 290.43(c)(3)

Violation Description

Failed to provide ground storage tanks ("GSTs") designed in strict accordance with American Water Works Association standards with an overflow pipe that terminates downward with a gravity-hinged and weighted cover tightly fitted with no gap over 1/16 inch. Specifically, at the time of the investigation, it was documented that the overflow pipe did not have a gravity-hinged and weighted cover on the GST at Plant No. 4.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to have an appropriately hinged overflow cover on the GST could expose customers of the Facility to significant amounts of contaminants, which would not exceed levels that are protective of human health.

Adjustment \$950

\$50

## Violation Events

Number of Violation Events 1

37 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$50

One quarterly event is recommended, calculated from the investigation date, May 2, 2012, to the screening date, June 8, 2012.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$50

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$14

Violation Final Penalty Total \$63

This violation Final Assessed Penalty (adjusted for limits) \$63

## Economic Benefit Worksheet

**Respondent** Frankston Rural Water Supply Corporation  
**Case ID No.** 44318  
**Reg. Ent. Reference No.** RN101440857  
**Media** Public Water Supply  
**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$300	2-May-2012	1-Jan-2013	0.67	\$1	\$13	\$14
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to provide the GST with a properly designed overflow pipe that has a gravity-hinged and weighted cover that fits tightly with no gap over 1/16 inch, calculated from the investigation date to the estimated date of compliance.

### Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$300

**TOTAL**

\$14

Screening Date 8-Jun-2012

Docket No. 2012-1174-PWS-E

PCW

Respondent Frankston Rural Water Supply Corporation

Policy Revision 3 (September 2011)

Case ID No. 44318

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101440857

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

Violation Number 5

Rule Cite(s)

30 Tex. Admin. Code § 290.44(h)(1)(A)

Violation Description

Failed to prohibit water connection to a residence or establishment where an actual or potential contamination or system hazard exists without an air gap separation or an approved backflow prevention assembly between the public water facilities and the actual or potential contamination or system hazard, as identified in 30 Tex. Admin. Code § 290.47(l). Specifically, at the time of the investigation, it was documented that a backflow prevention assembly was not installed at the Lake Palestine Animal Hospital.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to provide the required backflow prevention assemblies may allow backflow and siphonage to occur; thereby, exposing customers of the Facility to contaminants which would exceed levels that are protective of human health.

Adjustment \$850

\$150

## Violation Events

Number of Violation Events 2

37 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$300

Two monthly events are recommended, calculated from the investigation date, May 2, 2012, to the screening date, June 8, 2012.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$300

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$9

Violation Final Penalty Total \$375

This violation Final Assessed Penalty (adjusted for limits) \$375

# Economic Benefit Worksheet

**Respondent** Frankston Rural Water Supply Corporation

**Case ID No.** 44318

**Reg. Ent. Reference No.** RN101440857

**Media** Public Water Supply

**Violation No.** 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment	\$200	2-May-2012	1-Jan-2013	0.67	\$0	\$9	\$9
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

The delayed cost includes the estimated amount to install a backflow prevention assembly or air gap at the Lake Palestine Animal Hospital, calculated from the investigation date to the estimated date of compliance.

## Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**

\$200

**TOTAL**

\$9

Screening Date 8-Jun-2012

Docket No. 2012-1174-PWS-E

PCW

Respondent Frankston Rural Water Supply Corporation

Policy Revision 3 (September 2011)

Case ID No. 44318

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101440857

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 290.45(b)(1)(D)(iv) and Tex. Health &amp; Safety Code § 341.0315(c)

## Violation Description

Failed to provide an elevated storage capacity of 100 gallons per connection or a pressure tank capacity of 20 gallons per connection. Specifically, at the time of the investigation, it was documented that the Respondent is required to provide 3,440 gallons of pressure tank capacity at Plant No. 3. The pressure tank capacity available at Plant No. 3 was 3,000 gallons, which is 12% deficient.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

	Major	Moderate	Minor
Release			
Actual			
Potential		x	

Percent 5.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to provide adequate pressure tank capacity may result in low pressure throughout the distribution system potentially exposing customers of the Facility to a significant amount of contaminants which would not exceed levels protective of human health.

Adjustment \$950

\$50

## Violation Events

1

37

Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$50

One quarterly event is recommended, calculated from the investigation date, May 2, 2012, to the screening date, June 8, 2012.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$50

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$136

Violation Final Penalty Total \$63

This violation Final Assessed Penalty (adjusted for limits) \$63

# Economic Benefit Worksheet

**Respondent** Frankston Rural Water Supply Corporation  
**Case ID No.** 44318  
**Reg. Ent. Reference No.** RN101440857  
**Media** Public Water Supply  
**Violation No.** 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$2,123	2-May-2012	1-Apr-2013	0.92	\$6	\$130	\$136
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to provide an adequate pressure tank capacity, calculated from the investigation date to the estimated date of compliance.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,123

TOTAL

\$136

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600641989 Frankston Rural Water Supply Corporation Classification: Rating:  
 Regulated Entity: RN101440857 FRANKSTON RURAL WSC Classification: Site Rating:  
 ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0010004  
 WATER LICENSING LICENSE 0010004  
 Location: 0.25 MILE WEST OF STATE HIGHWAY 155 AT THE INTERSECTION OF COUNTY ROAD 318 AND 329,  
 ANDERSON COUNTY, TEXAS  
 TCEQ Region: REGION 05 - TYLER  
 Date Compliance History Prepared: June 07, 2012  
 Agency Decision Requiring Compliance History: Enforcement  
 Compliance Period: June 07, 2007 to June 07, 2012  
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
 Name: Abigail Lindsey Phone: (512) 239-2576

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? YES
2. Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3. If YES, who is the current owner/operator? N/A
4. If YES, who was/were the prior owner(s)/operator(s)? N/A
5. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: N/A Repeat Violator: N/A

## Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	05/15/2012	(1003022)
2	06/26/2007	(564536)
3	05/19/2008	(654053)
4	01/11/2010	(786611)
5	03/29/2010	(796077)
6	10/25/2010	(860457)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	06/28/2007	(564536)	CN600641989
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)		
Description:	Failure to make available sanitary control easements for the wells at the time of inspection.		
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)		
Description:	Failure to provide each well with a screened casing vent.		
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)		
Description:	Failure to provide an intruder-resistant fence in order to protect the wells.		
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(l)		
Description:	Failure to maintain a written Plant Operations Manual.		
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(e)(3)(D)		

Description: Failure to provide scales for determining the amount of disinfectant used daily, as well as the amount of disinfectant remaining for use.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(i)

Description: Failure to adopt an adequate plumbing ordinance, regulations or a service agreement with provisions for proper enforcement.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)

Description: Failure to initiate maintenance and housekeeping practices.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 288, SubChapter B 288.20

Description: Failure to provide a copy of an adopted drought contingency plan.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(i)(II)

Description: Failure to maintain records of the amount of treatment chemicals used each day.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(iii)

Description: Failure to maintain written complaint logs.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(iv)

Description: Failure to maintain records of the dates that dead-end mains were flushed.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(D)(ii)

Description: Failure to maintain records of the results of annual tank inspections.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(E)(iv)

Description: Failure to maintain records of Customer Service Inspections.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(3)

Description: Failure to maintain copies of well completion data.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(J)

Description: Failure to repair the cracked concrete sealing block surrounding Well Number 6, using a flexible, nontoxic, waterproof compound.

Date: 05/21/2008 (654053) CN600641989

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)

Description: Failure to make available sanitary control easements for the wells at the time of inspection.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)

Description: Failure to provide an intruder-resistant fence in order to protect the wells.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(I)

Description: Failure to maintain a written Plant Operations Manual.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 288, SubChapter B 288.20

Description: Failure to provide a copy of an adopted drought contingency plan.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(iii)

Description: Failure to maintain written complaint logs.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(D)(ii)

Description: Failure to maintain records of the results of annual tank inspections.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(3)

Description: Failure to maintain copies of well completion data.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(J)

Description: Failure to repair the cracked concrete sealing block surrounding Well Number 6, using a flexible, nontoxic, waterproof compound.



Date: **01/12/2010** (786611)

CN600641989

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)

Description: Failure to make available sanitary control easements for the wells at the time of inspection.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)

Description: Failure to provide an intruder-resistant fence in order to protect the wells.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(I)

Description: Failure to maintain a written Plant Operations Manual.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 288, SubChapter B 288.20

Description: Failure to provide a copy of an adopted drought contingency plan.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(3)

Description: Failure to maintain copies of well completion data.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(3)(D)

Description: Failure to provide scales for determining the amount of disinfectant used daily, as well as the amount of disinfectant remaining for use.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(i)(II)

Description: Failure to maintain records of the amount of treatment chemicals used each day.

Self Report? NO

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)

Description: Failure to operate a public water supply under the direct supervision of water works operator who holds an applicable valid license issued by the executive director.

Date: **04/01/2010** (796077)

CN600641989

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)

Description: Failure to make available sanitary control easements for the wells at the time of inspection.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)

Description: Failure to provide an intruder-resistant fence in order to protect the wells.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(I)

Description: Failure to maintain a written Plant Operations Manual.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 288, SubChapter B 288.20

Description: Failure to provide a copy of an adopted drought contingency plan.

Date: **10/29/2010** (860457)

CN600641989

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)

Description: Failure to make available sanitary control easements for the wells at the time of inspection.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
FRANKSTON RURAL WATER  
SUPPLY CORPORATION  
RN101440857**

**§        BEFORE THE  
§  
§        TEXAS COMMISSION ON  
§  
§        ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2012-1174-PWS-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality (“the Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding Frankston Rural Water Supply Corporation (the “Respondent”) under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

### **I. FINDINGS OF FACT**

1. The Respondent owns and operates a public water supply 0.25 mile west of State Highway 155 at the intersection of County Road 318 and 329, in Anderson County, Texas

(the "Facility") that has approximately 518 service connections and serves at least 25 people per day for at least 60 days per year.

2. During investigations conducted on May 15, 2007 and May 2, 2012, TCEQ staff documented that the Respondent failed to obtain sanitary control easements for all land within 150 feet of Well Nos. 1, 3, 6, 7 and 8.
3. During an investigation conducted on May 2, 2012, TCEQ staff documented that the Respondent had not received written approval from the TCEQ to place Plant No. 4 online.
4. During an investigation conducted on May 2, 2012, TCEQ staff documented that Well No. 9 did not have a well casing vent.
5. During an investigation conducted on May 2, 2012, TCEQ staff documented that there was not a fence surrounding Plant No. 4.
6. During an investigation conducted on May 2, 2012, TCEQ staff documented that the overflow pipe did not have a gravity-hinged and weighted cover on the ground storage tank ("GST") at Plant No. 4.
7. During an investigation conducted on May 2, 2012, TCEQ staff documented that a backflow prevention assembly was not installed at the Lake Palestine Animal Hospital.
8. During an investigation conducted on May 2, 2012, TCEQ staff documented that the Respondent is required to provide 3,440 gallons of pressure tank capacity at Plant No. 3. The pressure tank capacity available at Plant No. 3 was 3,000 gallons, which is 12% deficient.
9. The Respondent received notice of the violations on May 21, 2012.
10. The Executive Director recognizes that by July 13, 2012, the Respondent installed an intruder-resistant fence at Plant No. 4 and installed a well casing vent on Well No. 9.

## **II. CONCLUSIONS OF LAW**

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to obtain a sanitary control easement for all land within 150 feet of the ground water wells, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(F).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to notify the Executive Director prior to making any significant change to the Facility's production, treatment, storage, pressure maintenance, or distribution system, in violation of 30 TEX. ADMIN. CODE § 290.39(j) and TEX. HEALTH & SAFETY CODE § 341.0351.

4. As evidenced by Findings of Fact No. 4, the Respondent failed to provide a well casing vent with an opening that is covered with 16-mesh or finer corrosion-resistant screen, facing downward, elevated and located so as to minimize the drawing of contaminants into the groundwater well, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(K).
5. As evidenced by Findings of Fact No. 5, the Respondent failed to enclose the water treatment plant and all appurtenances within an intruder-resistant fence or a locked building that is to remain locked during periods of darkness or when the plant is unattended, in violation of 30 TEX. ADMIN. CODE § 290.42(m).
6. As evidenced by Findings of Fact No. 6, the Respondent failed to provide GSTs designed in strict accordance with American Water Works Association standards with an overflow pipe that terminates downward with a gravity-hinged and weighted cover tightly fitted with no gap over 1/16 inch, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(3).
7. As evidenced by Findings of Fact No. 7, the Respondent failed to prohibit water connection to a residence or establishment where an actual or potential contamination or system hazard exists without an air gap separation or an approved backflow prevention assembly between the public water facilities and the actual or potential contamination or system hazard, as identified in 30 TEX. ADMIN. CODE § 290.47(i), in violation of 30 TEX. ADMIN. CODE § 290.44(h)(1)(A).
8. As evidenced by Findings of Fact No. 8, the Respondent failed to provide an elevated storage capacity of 100 gallons per connection or a pressure tank capacity of 20 gallons per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(iv) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
9. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
10. An administrative penalty in the amount of One Thousand Two Hundred Seventy-Seven Dollars (\$1,277) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the One Thousand Two Hundred Seventy-Seven Dollar (\$1,277) administrative penalty.

### **III. ORDERING PROVISIONS**

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of One Thousand Two Hundred Seventy-Seven Dollars (\$1,277) as set forth in Section II, Paragraph 10

above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Frankston Rural Water Supply Corporation, Docket No. 2012-1174-PWS-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order:
  - i. Provide written notification to the Executive Director of all modifications that have been made to the Facility's production, treatment, storage, pressure maintenance, or distribution system, including but not limited to the additional Plant No. 4, in accordance with 30 TEX. ADMIN. CODE § 290.39. The notification shall be submitted to:

Utilities Technical Review Team  
Water Supply Division MC 159  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- ii. Provide the GST overflows with gravity-hinged and weighted covers that fit tightly with no gap over 1/16 inch, in accordance with 30 TEX. ADMIN. CODE § 290.43.
- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.f. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i. and 2.a.ii.
- c. Within 90 days after the effective date of this Agreed Order:
  - i. Ensure that a proper backflow prevention assembly or an air gap is provided at all locations where an actual or potential contamination hazard exists, as identified in 30 TEX. ADMIN. CODE § 290.47; and

- ii. Obtain a sanitary control easement that covers all land with 150 feet for Well Nos. 1, 3, 6, 7 and 8, in accordance with 30 TEX. ADMIN. CODE § 290.41, or obtain Commission approval of an exception to the easement requirement pursuant to 30 TEX. ADMIN. CODE § 290.39.

The exception request shall be submitted to:

Technical Review and Oversight Team  
Water Supply Division, MC 159  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- d. Within 105 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.f. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.c.i. and 2.c.ii.
- e. Within 180 days after the effective date of this Agreed Order, provide a pressure tank capacity of 20 gallons per connection at Plant No. 3, in accordance with 30 TEX. ADMIN. CODE § 290.45.
- f. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.e. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.”

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A

Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Water Section Manager  
Tyler Regional Office  
Texas Commission on Environmental Quality  
2916 Teague Drive  
Tyler, Texas 75701-3734

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures



may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

*Ben McVie Jr*  
For the Executive Director

3/28/13  
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Frankston Rural Water Supply Corporation. I am authorized to agree to the attached Agreed Order on behalf of Frankston Rural Water Supply Corporation, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Frankston Rural Water Supply Corporation waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

A negative impact on compliance history;  
Greater scrutiny of any permit applications submitted;  
Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;  
Increased penalties in any future enforcement actions;  
Automatic referral to the Attorney General's Office of any future enforcement actions;  
and  
TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

*[Signature]*  
Signature

9/17/12  
Date

NJ Dwyer  
Name (Printed or typed)  
Authorized Representative of  
Frankston Rural Water Supply Corporation

President  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section III, Paragraph 1 of this Agreed Order.